

Michael J. Farrell, Washington State Bar No. 18897  
[mfarrell@martinbischoff.com](mailto:mfarrell@martinbischoff.com)  
MARTIN BISCHOFF TEMPLETON  
LANGSLET & HOFFMAN LLP  
888 SW Fifth Avenue, Suite 900  
Portland, Oregon 97204  
Telephone: 503.224.3113  
Facsimile: 503.224.9471

Of Attorneys for Defendant

**THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

ABRAHAM BERGERSON,

Plaintiff,

v.

LVNV FUNDING LLC as assignee of  
SEARS GOLD MASTERCARD

Defendant.

CASE NO.: 3:09-cv-05177-KLS

ANSWER AND AFFIRAMTIVE DEFENSES  
OF LVNV FUNDING LLC  
TO PLAINTIFF'S COMPLAINT

Defendant LVNV Funding, LLC ("LVNV"), as and for its Answer to the Complaint of Abraham Bergerson ("Plaintiff"), in the above-entitled matter, denies each and every allegation contained therein, unless otherwise admitted or qualified herein, and states and alleges as follows:

1. In response to paragraph 1 of Plaintiff's Complaint, LVNV admits that the statutes referenced confer jurisdiction upon this Honorable Court but denies that it violated any law to subject it to the jurisdiction of this Court.

2. In response to paragraph 2 of Plaintiff's Complaint, LVNV admits that Plaintiff alleges violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*

but denies that it violated any law.

3. LVNV has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 3 of Plaintiff's Complaint and therefore denies the same.

4. LVNV has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 4 of Plaintiff's Complaint and therefore denies the same.

5. In response to paragraph 5 of Plaintiff's Complaint, LVNV denies that it is a "debt collector" as defined by the FDCPA. LVNV affirmatively states that it is not registered in Washington but further states that it is not required to do so.

6. In response to paragraph 6 of Plaintiff's Complaint, LVNV admits, upon information and belief, that Plaintiff incurred a debt but has insufficient information and knowledge to either admit or deny the remaining allegations and therefore denies the same.

7. LVNV has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 7 of Plaintiff's Complaint and therefore denies the same.

8. LVNV admits the allegations set forth in paragraph 8 of Plaintiff's Complaint, upon information and belief.

9. LVNV has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 9 of Plaintiff's Complaint and therefore denies the same.

10. LVNV has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 10 of Plaintiff's Complaint and therefore denies the same.

11. LVNV denies the allegations set forth in paragraph 11 of Plaintiff's Complaint.

12. In response to paragraph 12 of Plaintiff's Complaint, LVNV admits that Plaintiff demands a trial by jury but denies that Plaintiff is entitled to the same as there has been no violation of law.

13. LVNV restates and realleges paragraphs 1 through 12 of this Answer as though fully set forth herein.

14. LVNV denies the allegations set forth in paragraph 14 of Plaintiff's Complaint.

15. LVNV denies the allegations set forth in paragraph 15 of Plaintiff's Complaint.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Any violation of the law or damage suffered by Plaintiff, which LVNV denies, was due to the affirmative actions and/or omissions of Plaintiff or others, and does not give rise to any liability of LVNV.

#### **THIRD AFFIRMATIVE DEFENSE**

Any violation of the FDCPA, which LVNV denies, was not intentional and resulted, if at all, from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors.

#### **FOURTH AFFIRMATIVE DEFENSE**

Any violation of the law or damage suffered by Plaintiff, which LVNV denies, was due to the affirmative actions and/or omissions of Plaintiff or others, and does not give rise to any claim of damages against LVNV.

#### **FIFTH AFFIRMATIVE DEFENSE**

LVNV does not transact business in Washington. *See* RCW 25.15.350

**WHEREFORE**, LVNV prays for an order and judgment of this Court in its favor against Plaintiff as follows:

1. Dismissing all causes of action against LVNV with prejudice and on the merits;  
and,
2. Awarding LVNV such other and further relief as the Court deems just and equitable.

DATED: May 12, 2009.

MARTIN BISCHOFF TEMPLETON  
LANGSLET & HOFFMAN LLP

By: 

Michael J. Farrell, WSB No. 18897

mfarrell@martinbischoff.com

888 SW Fifth Avenue, Suite 900

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Facsimile: 503.224.9471

Of Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I filed the foregoing ANSWER AND AFFIRAMTIVE DEFENSES OF LVNV FUNDING LLC TO PLAINTIFF'S COMPLAINT via the U.S. District Court's CM/ECF Electronic Filing System. In addition, a true copy of this document was mailed via First Class Mail and deposited in the U.S. Post Office addressed to:

Clerk of the Court  
U.S. District Court Western Dist. of Washington  
1717 Pacific Avenue, Room 3100  
Tacoma, Washington 98402


I further certify that by filing said document via the U.S. District Court's CM/ECF Electronic Filing System, a copy thereof was served on the following parties:

Keith D. Karnes  
Olsen, Olsen & Daines, LLC  
1599 State St.  
P.O. Box 12829  
Salem, Oregon 97309-0829  
kkarnes@olsendaines.com

Of Attorneys for Plaintiff

DATED: May 12, 2009.

MARTIN BISCHOFF TEMPLETON  
LANGSLET & HOFFMAN LLP

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